

MINUTES OF THE MEETING
OF THE CITY COUNCIL OF THE
CITY OF BURLINGTON
January 2, 2007
7:30 P.M.

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, N. C., 27216-1358, on January 2, 2007, at 7:30 p.m.

Mayor Pro Tem Mark A. Jones presided

Councilmembers present: Mayor Pro Tem Jones, Councilmembers Huffman, Starling and Wall

Councilmembers absent: Mayor Ross

Harold Owen, City Manager, present

Robert M. Ward, City Attorney, present

Jondeen D. Terry, City Clerk, present

INVOCATION: Councilmember Don Starling

RECOGNITION: Presented to Chip Ferguson the Public Health Partnership Award by Kathy Colville, Public Preparedness Coordinator, Health Department

MINUTES

Mayor Pro Tem Jones called for approval of the City Council minutes of the meeting of December 19, 2006.

Upon motion by Councilmember Wall, seconded by Councilmember Starling, it was resolved unanimously to approve the minutes of the meeting held on December 19, 2006.

ADOPTION OF AGENDA:

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to adopt the agenda.

NEW BUSINESS:

ITEM 1: EASEMENT AGREEMENT - CITY OF BURLINGTON - HERBERT E. PUCKETT

Mayor Pro Tem Jones announced that the City Council would consider approving an easement agreement from the City of Burlington to Herbert E. Puckett for access across the sedimentation pond dam to Mr. Puckett's property located adjacent to Lake Cammack.

Mr. Paul Koonts, Bateman, Oertel & Koonts, PLLC, representing Mr. Puckett, stated that his client owned a 97-acre farm near Lake Cammack. He stated that when the City of Burlington built Lake Cammack, sedimentation ponds and dams were created and that one of the sedimentation ponds cut through the middle of Mr. Puckett's property. Mr. Koonts stated that Mr. Puckett's access to the back portion of the property would be across the dam. Mr. Koonts stated that Mr. Puckett's daughter lived on the other side of the dam and that Mr. Puckett would like to deed his daughter acreage around her house but that his daughter did not have a recorded easement and could not get a recorded easement because the City of Burlington owned the dam crossing.

Councilmember Huffman stated that this agreement would benefit Mr. Koonts' client and the City because the City used the same easement across Mr. Puckett's property to maintain the ponds.

Councilmember Huffman pointed out that if the Puckett's were to develop the property to the extent it would increase the burden of the easement on the City, any further development would require approval of the City Council.

City Attorney Ward stated that Mr. Puckett would have to come before the Council in the event there was any development.

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to approve the easement agreement.

PUBLIC HEARING:

ITEM 2: REZONE PROPERTY - PLACEMENT OF MONOPOLE OUTDOOR ADVERTISING STRUCTURE

Mayor Pro Tem Jones announced that a public hearing had been

scheduled to consider rezoning from I-1, Planned Industrial District, to CI, Conditional Industrial District, to allow for the placement of one monopole outdoor advertising structure. The property is located on the west side of the southernmost end of Trail Two north of Interstate 85/40 as shown on Alamance County Tax Map 12-5-4.

Mr. Charles Bateman, Bateman, Oertel & Koonts, PLLC, representing Mr. Joseph Rickman, stated that the 2.5-acre site was located at the end of a dead-end and was currently zoned Planned Industrial and was vacant except for one existing outdoor advertising structure. Mr. Bateman proposed that one outdoor advertising structure would be constructed on the property and would commit through a specific Development Condition to leave the rest of the property undeveloped to serve as a buffer for the residential neighborhood and would discontinue use of the existing structure. Mr. Bateman stated that the integrity of the neighborhood would be preserved by preventing any further development and that natural areas would be allowed to provide sound buffers from highway noise. Mr. Bateman stated that Mr. Rickman had surveyed six of the seven adjacent neighbors and that five of those seven had signed letters in support of the proposal. He stated that one of the seven could not be reached and one gentleman was present at the Council meeting. Mr. Bateman stated that it might be a digital sign or a digital structure that would have less light spillage, 13-foot projection and asked the Council to approve the digital sign if it became necessary.

Councilmember Wall asked what was the size of the existing sign.

Mr. Bateman stated that it was 10 feet by 24 feet.

Councilmember Wall asked the size of the new structure.

Mr. Bateman stated it would be 10 feet by 36 feet.

Mayor Pro Tem Jones asked why the sign was being moved closer to the residents if the 2.5 acres would not be used and why not move it halfway in the middle of property.

Mr. Bateman stated his client would be willing to do that. He stated that in the beginning the existing sign was not going to be taken down and then it was determined to be more compatible to the neighborhood if the existing sign was taken down. Mr. Bateman stated that the new structure could be located in the center of the property and offered that development condition to the Council.

Councilmember Starling asked why would the new sign not be put where the existing sign is located.

Mr. Rickman stated that there were electrical lines adjacent to the existing structure, and when traveling westbound on I-40 one would have a significant amount of blockage on the property at the Elk's Lodge and further east. He stated that the closer the sign is to the east there was less visibility due to trees and flat land.

Mayor Pro Tem Mark Jones stated that this was a public hearing and since City staff had not recommended the rezoning, he asked to hear from staff first and then the public.

Planning Director Robert Harkrader stated that several citizens spoke at the Planning and Zoning Commission meeting and opposed this rezoning. Mr. Harkrader expressed concerns from a policy standpoint and stated that a precedent would be set. He stated that he was not aware that the City had ever approved a conditional rezoning for the sole purpose of an outdoor advertising sign. He pointed out that this was a unique situation because there was an existing sign on the property. He stated that the offer that was made this evening regarding moving the sign was not offered at the Planning and Zoning Commission meeting.

Mayor Pro Tem Jones stated that obviously there was an existing billboard, and if the billboard were to come down, what could be done with the 2.64 acres.

Mr. Harkrader stated that if the property was rezoned to R-9 there could be 12 residential units that would be a compatible use with the current residential uses. He stated that any movement of the sign to the east would help the situation in regard to the residential property owners.

Councilmember Wall asked Mr. Harkrader if the sign was moved back to the east would staff be okay with replacing the old sign with a new sign.

Mr. Harkrader stated that he would have some reservations but that this case was unique and that the original request was for two signs.

Councilmember Starling asked Mr. Harkrader if the Planning and Zoning Commission had requested that the sign be moved.

Mr. Harkrader stated that in discussions with Mr. Bateman, staff and Planning and Zoning Commission members had asked that the sign be moved.

Councilmember Huffman asked what were Mr. Bateman and his client offering.

Mr. Bateman stated that the sign would be centered on the property and would be 350 feet from each end to allow visibility.

Mr. Patrick McCain, 1908 Lynnwood Drive, expressed concern about lighting and the sign devaluing adjoining property. Mr. McCain stated that if the present sign was removed, he had no disagreements.

Mr. Robert Steele, Burlington Elks Lodge, spoke in favor of the rezoning.

Mayor Pro Tem Jones asked Mr. Steele if he understood that the Elks property would not conform to the placement of a sign.

Mr. Steele stated that was correct and that the Elks property did not have the footage even with the road closing.

Mr. Bateman stated that he personally believed that he did not need to specify a digital sign but requested Council to include a digital sign in the proposal. Mr. Bateman stated that an agreement was made with the Planning Department that the sign would be a straight-face board and would not be V-faced or inverted.

Mr. Bateman stated that the applicant would amend the application to state that the existing structure would be removed and would add by conditional offer that the sign would be centered on the property and make it equal distance from each corner and that the sign would be straight back-to-back. Mr. Bateman asked permission to include the ability to use a digital face sign.

Mayor Pro Tem Jones asked the difference between the digital and normal signage.

Mr. Joe Rickman stated that instead of a standard static board that would traditionally stay up for six months to a year and not change and that the LED screen would allow one to change the advertisements daily via the Internet.

Councilmember Huffman asked if the state had any special regulations regarding digital signs.

Mr. Rickman, property owner, stated that the North Carolina Department of Transportation requires through the Federal Highway Administration that a digital board could not change more than every eight seconds.

City Manager Owen asked Mr. Rickman to explain the difference in standard lighting.

Mr. Rickman stated that a standard board would have three 400 watt metal lamp fixtures externally mounted on a catwalk about six or eight feet from the board and there would be some refraction up but not down. He stated that an LED board is actually internally illuminated and is bright but only projects 12 to 15 feet and stops.

Councilmember Starling stated that the request had changed three or four times and expressed concern that Planning and Zoning had one proposal and the Council had another proposal. He stated that in the write-up it was a 40-foot sign and now it was a 36-foot v-shaped sign versus a flat sign. He stated that it would be better to get it all together and come back and present the proposal at one time.

Mr. Bateman stated that all the issues that had been discussed except for the type of technology on the board had been discussed at the Planning and Zoning Commission meeting. He stated that Mr. Harkrader raised the point asking if it would be a v-shaped sign or a horizontal sign. Mr. Bateman stated that it was the City's suggestion that the sign be horizontal because it dissipates light less. Mr. Bateman stated that the only other thing that had been changed was to move the sign toward the center of the property. Mr. Bateman stated that he was not convinced that the current ordinance standards for outdoor advertising structures would prohibit the use of the type of technology that had been offered. Mr. Bateman stated that there had been nothing discussed tonight that in any way conflicted with what went before the Planning and Zoning Commission.

Mr. Ray Whitesell, 802 Trail Two, who owns property across from the Elk's Lodge, spoke in favor of the rezoning.

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the ordinance with additional conditions that state there would be a straight-faced sign located in the center of the property approximately 350 feet from each side and that a digital sign would be allowed.

07-01

ORDINANCE TO REZONE PROPERTY FOR CONSTRUCTION OF MONOPOLE
OUTDOOR ADVERTISING STRUCTURE

BE IT ORDAINED by the City Council of the City of Burlington,
North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from I-1, Planned Industrial District, to CI, Conditional Industrial District, subject to those conditional uses with limitations as set forth in Sections 2, 3 and 4 of this ordinance the area described as follows:

Property located on the west side of the southernmost end of Trail Two north of Interstate 85/40 as shown on Alamance County Tax Map 12-5-4.

Section 2. That the rezoning from I-1 to CI is hereby authorized subject to the following Use and Development Conditions:

Use Conditions

1. Applicant proposes to construct one monopole outdoor advertising structure that shall be straight-faced 10 feet by 36 feet at an overall height of 40 feet above grade level and approximately five feet behind the Interstate 85/40 property line. Applicant has option of erecting a digital sign if desired.
2. The structure shall be centered on the 2.64 acre tract approximately 350 feet from each side.
3. The existing non-conforming structure shall be removed prior to the construction of a new structure.
4. No other uses shall be permitted on the lot.

Development Conditions

1. The applicant shall plant a V-shaped row of Leyland cypress 40 feet in length as indicated during the November 27, 2006, Planning and Zoning Commission meeting.
2. The applicant shall leave the tract shown on the submitted site plan as an undisturbed natural area to provide continued buffering to adjacent property owners.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Jones, and after full discussion, the same was voted upon and declared duly adopted, and consent having been given to place the same upon its immediate passage. The ordinance was adopted by a vote of three to one with Councilmember Starling voting in opposition to the rezoning.

PUBLIC COMMENT PERIOD:

There were no public comments.

CITY MANAGER COMMENT:

City Manager Owen announced a reminder that there would be a work session on January 8, 2006, at the John Robert Kernodle Center at 7:00 p.m.

ADJOURN:

Upon motion by Councilmember Starling, seconded by Councilmember Jones, it was resolved unanimously to adjourn.

Jondeen D. Terry
City Clerk